



RAVALLI COUNTY ATTORNEY

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TO: COMMISSIONERS

FROM: Alex Beal, Deputy

DATE: March 9, 2007

RE: Bitterroot Composite Lumber Co. & Revenue Bonds

RECEIVED

MAR 08 2007

Ravalli County Commissioners

Dear Commissioners:

Pursuant to your request, I have researched Industrial Development Bonds in regard to the potential Bitterroot Composite Lumber Co. project. Put simply, these are a source of "conduit financing," meaning that there is no financial exposure to the county. Federal Law allows us to let private corporations use our tax-exempt status to obtaining better financing rates through bond offerings. The bonds must be used for manufacturing facilities and are capped at a maximum of \$10,000,000.

MCA § 90-5-103 and -105(3)(b) (2005) specifically require that the bonds not be liabilities of the county and require that to be stated on the face of the bonds. Nothing about this process limits Ravalli County's ability to tax the property and income of the Bitterroot Composite Lumber Co. MCA § 905-110 (2005). The construction phase of any projects financed in this way must give preference to Montana resident's labor. MCA § 90-5-114 (2005). Prior to the issuance, we must publish, once a week for three weeks, notice that there will be a public hearing. At that hearing, you must take public comment and make a finding that the issuance of the bonds would be in the public interest of the county, if you wish to go forward with the project.

I am not aware of any problems with the Ravalli County Economic Development Authority acting as the issuer of these bonds. My predecessor has previously issued opinions that the RCEDA is a duly formed Port Authority of the State of Montana, and a governmental authority pursuant to MCA § 7-14-1101 (2005). MCA § 7-14-1133 (2005) therefore specifically grants it the authority to issue bonds. Unless there is something specific in Federal law regarding Industrial Development Bonds that I am not aware of—an issue for bond counsel—I see no reason why the RCEDA could not issue these bonds.

I am not sure at this time if there are issues with MCA § 7-7-2102 (2005) which caps the

amount of bonds **issued** by the county at 1.4% of the total assessed value of taxable property. These bonds would be **issued** by the county or RCEDA, though not liabilities of the county. A question remains as to whether this issuance would count against our total allowable, and whether we have room under the 1.4% cap to be involved in this project. You clearly have the authority to issue these bonds, this is a question of whether you have the ability. I will continue to research this question, but it may take some time.

Alex Beal